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**DEPARTMENT OF THE TREASURY**

**Alcohol and Tobacco Tax and Trade Bureau**

**27 CFR Part 9**

**[Docket No. TTB–2018–0009]**

**[T.D. TTB–156; Ref: Notice No. 178]**

**RIN: 1513–AC43**

**Establishment of the Crest of the Blue Ridge Henderson County Viticultural Area**

**AGENCY:** Alcohol and Tobacco Tax and Trade Bureau, Treasury.

**ACTION:** Final rule; Treasury decision.

**SUMMARY:** The Alcohol and Tobacco Tax and Trade Bureau (TTB) establishes the approximately 215-square mile “Crest of the Blue Ridge Henderson County” viticultural area in Henderson County, North Carolina. The Crest of the Blue Ridge Henderson County viticultural area is not located within any other established viticultural area. TTB designates viticultural areas to allow vintners to better describe the origin of their wines and to allow consumers to better identify wines they may purchase.

**DATES:** This final rule is effective [INSERT DATE 30 DAYS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**FOR FURTHER INFORMATION CONTACT:** Karen A. Thornton, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW., Box 12, Washington, DC 20005; telephone 202–453–1039, ext. 175.

**SUPPLEMENTARY INFORMATION:**

**Background on Viticultural Areas**

TTB Authority

Section 105(e) of the Federal Alcohol Administration Act (FAA Act), 27 U.S.C. 205(e), authorizes the Secretary of the Treasury to prescribe regulations for the labeling of wine, distilled spirits, and malt beverages. The FAA Act provides that these regulations should, among other things, prohibit consumer deception and the use of misleading statements on labels and ensure that labels provide the consumer with adequate information as to the identity and quality of the product. The Alcohol and Tobacco Tax and Trade Bureau (TTB) administers the FAA Act pursuant to section 1111(d) of the Homeland Security Act of 2002, codified at 6 U.S.C. 531(d). The Secretary has delegated various authorities through Treasury Department Order 120–01, dated December 10, 2013 (superseding Treasury Order 120–01, dated January 24, 2003), to the TTB Administrator to perform the functions and duties in the administration and enforcement of these laws.

Part 4 of the TTB regulations (27 CFR part 4) authorizes the establishment of definitive viticultural areas and regulates the use of their names as appellations of origin on wine labels and in wine advertisements. Part 9 of the

TTB regulations (27 CFR part 9) sets forth standards for the preparation and submission of petitions for the establishment or modification of American viticultural areas (AVAs) and lists the approved AVAs.

### Definition

Section 4.25(e)(1)(i) of the TTB regulations (27 CFR 4.25(e)(1)(i)) defines a viticultural area for American wine as a delimited grape-growing region having distinguishing features, as described in part 9 of the regulations, and a name and a delineated boundary, as established in part 9 of the regulations. These designations allow vintners and consumers to attribute a given quality, reputation, or other characteristic of a wine made from grapes grown in an area to the wine's geographic origin. The establishment of AVAs allows vintners to describe more accurately the origin of their wines to consumers and helps consumers to identify wines they may purchase. Establishment of an AVA is neither an approval nor an endorsement by TTB of the wine produced in that area.

### Requirements

Section 4.25(e)(2) of the TTB regulations (27 CFR 4.25(e)(2)) outlines the procedure for proposing an AVA and provides that any interested party may petition TTB to establish a grape-growing region as an AVA. Section 9.12 of the TTB regulations (27 CFR 9.12) prescribes standards for petitions for the establishment or modification of AVAs. Petitions to establish an AVA must include the following:

- Evidence that the area within the proposed AVA boundary is nationally or locally known by the AVA name specified in the petition;
- An explanation of the basis for defining the boundary of the proposed AVA;
- A narrative description of the features of the proposed AVA affecting viticulture, such as climate, geology, soils, physical features, and elevation, that make the proposed AVA distinctive and distinguish it from adjacent areas outside the proposed AVA boundary;
- The appropriate United States Geological Survey (USGS) map(s) showing the location of the proposed AVA, with the boundary of the proposed AVA clearly drawn thereon; and
- A detailed narrative description of the proposed AVA boundary based on USGS map markings.

### **Crest of the Blue Ridge Henderson County Petition**

TTB received a petition from Mark Williams, the executive director of Agribusiness Henderson County, and Barbara Walker, the county extension support specialist for North Carolina Cooperative Extension, on behalf of local vineyards and winery operators, proposing the establishment of the “Crest of the Blue Ridge Henderson County” AVA in Henderson County, North Carolina. The proposed Crest of the Blue Ridge Henderson County AVA covers approximately 215 square miles and is not located within any other AVA. There are 14 commercial vineyards covering a total of approximately 70 acres within the

proposed AVA, as well as two bonded wineries. According to the petition, an additional 55 acres of vineyards are planned for planting in the next five years.

According to the petition, the distinguishing features of the proposed AVA are its climate and topography – specifically its elevation. Elevation can influence such climatic factors as temperature, length of growing season, and precipitation. The petition describes the Crest of the Blue Ridge Henderson County AVA as straddling the Eastern Continental Divide, colloquially known as the Crest of the Blue Ridge. The crest separates two physiographic provinces, the Blue Ridge Escarpment, which covers the southern and eastern portions of the proposed AVA, and the Blue Ridge Plateau, which covers the northern and western portions of the proposed AVA. The Blue Ridge Escarpment rises steeply, so that this region of the proposed AVA has an average elevation more than 950 feet higher than the region immediately south, and more than 1,200 feet higher than the region immediately east. To the northwest of the proposed AVA lies the Asheville Basin, along the valley through which the French Broad River flows. Although the Asheville Basin sits at a similar elevation to the proposed AVA, the hills and mountains surrounding the Asheville Basin rise to some of the highest elevations of the entire Appalachian Chain, with an average elevation more than 800 feet higher than in the proposed AVA. Meanwhile, the areas to the west of the proposed AVA rise an average of more than 400 feet higher than the proposed AVA. Thus, the proposed AVA's position straddling the Crest of the Blue Ridge gives it an intermediate elevation, higher than the areas to the south and east, while lower than the areas to the north and west.

Similarly, the proposed AVA's position along the Crest of the Blue Ridge gives it a distinct climate compared to surrounding regions. The proposed AVA, along with the similarly situated Asheville Basin, has an average temperature in the warm 63–67 °F range, compared to the regions immediately east and south, which have hotter average temperatures in the 67–72 °F range. The regions to the west, and the mountains and hills immediately north, of the proposed AVA have cooler average temperatures in the 59–63 °F range. The proposed AVA's transitional temperature and elevation from the higher and cooler regions to the north and west, and the lower and warmer region to the south and east, are reflected in precipitation levels and growing season length. The growing season of the proposed AVA spans 200–220 days, shorter than the 220–240 day growing season to the south and 210–240 day growing season to the east of the proposed AVA, but slightly longer than the 180–210 day growing season to the north (excluding the Asheville Basin), and the 170–210 day growing season to the west of the proposed AVA. The length of the growing season affects the grape varieties that can be grown in a region, and the petitioners single out such grape varieties as Cabernet Franc, Cabernet Sauvignon, Chardonnay, and Vidal Blanc as good fits for the proposed AVA, given the length of its growing season.

Similarly, the proposed AVA has average annual precipitation levels lower than the regions east, south, and west of the proposed AVA, but higher than the regions north of the proposed AVA, including the Asheville Basin, the latter which has average annual precipitation levels approximately fifteen inches lower than

the proposed AVA. According to the petition, these intermediate precipitation levels are viticulturally significant, because excessive rainfall can cause excess vine and leaf growth, promote fungal disease, and attract insects, whereas too little rainfall can stress or even kill the vines.

### **Notice of Proposed Rulemaking and Comments Received**

TTB published Notice No. 178 in the **Federal Register** on December 6, 2018 (83 FR 62743), proposing to establish the Crest of the Blue Ridge Henderson County AVA. In the notice, TTB summarized the evidence from the petition regarding the name, boundary, and distinguishing features for the proposed AVA. The notice also compared the distinguishing features of the proposed AVA to the surrounding areas. For a detailed description of the evidence relating to the name, boundary, and distinguishing features of the proposed AVA, and for a detailed comparison of the distinguishing features of the proposed AVA to the surrounding areas, see Notice No. 178. In Notice No. 178, TTB solicited comments on the accuracy of the name, boundary, and other required information submitted in support of the petition. The comment period closed on February 4, 2019.

### **Comments Received**

In response to Notice No. 178, TTB received five comments. Commenters included the general manager of a local vineyard, a local resident, wine consumers, and Congressman Mark Meadows of North Carolina.

All of the comments supported the proposed AVA, generally due to the potential of the AVA designation to raise consumer and industry awareness of

the distinctive nature of locally grown wines. The comments did not raise any new issues concerning the proposed AVA. TTB received no comments opposing the establishment of the Crest of the Blue Ridge Henderson County AVA.

### **TTB Determination**

After careful review of the petition and the comments received in response to Notice No. 178, TTB finds that the evidence provided by the petitioner supports the establishment of the Crest of the Blue Ridge Henderson County AVA. Accordingly, under the authority of the FAA Act, section 1111(d) of the Homeland Security Act of 2002, and parts 4 and 9 of the TTB regulations, TTB establishes the “Crest of the Blue Ridge Henderson County” AVA in Henderson County, North Carolina, effective 30 days from the publication date of this document.

### **Boundary Description**

See the narrative description of the boundary of the Crest of the Blue Ridge Henderson County AVA in the regulatory text published at the end of this final rule.

### **Maps**

The petitioner provided the required maps, and they are listed below in the regulatory text.

### **Impact on Current Wine Labels**

Part 4 of the TTB regulations prohibits any label reference on a wine that indicates or implies an origin other than the wine's true place of origin. For a wine to be labeled with an AVA name or with a brand name that includes an AVA



name, at least 85 percent of the wine must be derived from grapes grown within the area represented by that name, and the wine must meet the other conditions listed in 27 CFR 4.25(e)(3). If the wine is not eligible for labeling with an AVA name and that name appears in the brand name, then the label is not in compliance and the bottler must change the brand name and obtain approval of a new label. Similarly, if the AVA name appears in another reference on the label in a misleading manner, the bottler would have to obtain approval of a new label. Different rules apply if a wine has a brand name containing an AVA name that was used as a brand name on a label approved before July 7, 1986. See 27 CFR 4.39(i)(2) for details.

With the establishment of this AVA, its name, “Crest of the Blue Ridge Henderson County” will be recognized as a name of viticultural significance under § 4.39(i)(3) of the TTB regulations (27 CFR 4.39(i)(3)). The text of the regulation clarifies this point. Consequently, wine bottlers using the name “Crest of the Blue Ridge Henderson County” in a brand name, including a trademark, or in another label reference as to the origin of the wine, will have to ensure that the product is eligible to use the AVA name as an appellation of origin. TTB is not designating “Crest of the Blue Ridge,” standing alone, or “Blue Ridge,” standing alone, as terms of viticultural significance, because the Blue Ridge Mountains and the ridgeline forming the Crest of the Blue Ridge both cover a multi-State area significantly larger than the region of the AVA, which lies entirely within Henderson County, North Carolina. The establishment of the Crest of the Blue Ridge Henderson County AVA will not affect any existing AVA. The

establishment of the Crest of the Blue Ridge Henderson County AVA will allow vintners to use “Crest of the Blue Ridge Henderson County” as an appellation of origin for wines made primarily from grapes grown within the Crest of the Blue Ridge Henderson County AVA if the wines meet the eligibility requirements for the appellation.

### **Regulatory Flexibility Act**

TTB certifies that this regulation will not have a significant economic impact on a substantial number of small entities. The regulation imposes no new reporting, recordkeeping, or other administrative requirement. Any benefit derived from the use of an AVA name would be the result of a proprietor’s efforts and consumer acceptance of wines from that area. Therefore, no regulatory flexibility analysis is required.

### **Executive Order 12866**

It has been determined that this final rule is not a significant regulatory action as defined by Executive Order 12866 of September 30, 1993. Therefore, no regulatory assessment is required.

### **Drafting Information**

Trevar D. Kolodny of the Regulations and Rulings Division drafted this final rule.

### **List of Subjects in 27 CFR Part 9**

Wine.

## **The Regulatory Amendment**

For the reasons discussed in the preamble, TTB amends title 27, chapter I, part 9, Code of Federal Regulations, as follows:

### **PART 9—AMERICAN VITICULTURAL AREAS**

1. The authority citation for part 9 continues to read as follows:

**Authority:** 27 U.S.C. 205.

#### **Subpart C—Approved American Viticultural Areas**

2. Add § 9.266 to read as follows:

##### **§ 9.266 Crest of the Blue Ridge Henderson County.**

(a) Name. The name of the viticultural area described in this section is “Crest of the Blue Ridge Henderson County”. For purposes of part 4 of this chapter, “Crest of the Blue Ridge Henderson County” is a term of viticultural significance.

(b) Approved maps. The nine United States Geological Survey (USGS) 1:24,000 scale topographic maps used to determine the boundary of the Crest of the Blue Ridge Henderson County viticultural area are titled:

- (1) Black Mountain, North Carolina, 1941; photorevised 1978;
- (2) Bat Cave, North Carolina, 1997;
- (3) Clifffield Mountain, North Carolina, 1946; photorevised 1991;
- (4) Saluda, North Carolina–South Carolina, 1983 (provisional edition);
- (5) Zirconia, North Carolina–South Carolina, 1997;
- (6) Standingstone Mountain, South Carolina–North Carolina, 1997;
- (7) Horse Shoe, North Carolina, 1997;

(8) Hendersonville, North Carolina, 1997; and

(9) Fruitland, North Carolina, 1997.

(c) Boundary. The Crest of the Blue Ridge Henderson County viticultural area is located in Henderson County, North Carolina. The boundary of the Crest of the Blue Ridge Henderson County viticultural area is as described below:

(1) The beginning point is on the Black Mountain map at the 4,412-foot elevation marker atop Little Pisgah Mountain, along the shared Buncombe–Henderson county line. From the beginning point, proceed southeast along the Buncombe–Henderson county line approximately 4.4 miles, crossing onto the Bat Cave map, to the intersection of the Buncombe–Henderson county line with the shared Henderson–Rutherford county line; then

(2) Proceed southerly along the shared Henderson–Rutherford county line approximately 5.1 miles to its intersection with the Polk county line; then

(3) Proceed southwest along the shared Henderson–Polk county line approximately 14.9 miles, crossing over the Clifffield Mountain map and onto the Saluda map, to its intersection with the North Carolina–South Carolina border; then

(4) Proceed westerly along the North Carolina–South Carolina border approximately 8.1 miles, crossing onto the Zirconia map, to the 3,058-foot elevation marker atop Big Top Mountain; then

(5) Proceed northwest in a straight line approximately 2.0 miles, crossing onto the Standingstone Mountain map, to the center of the highest closing contour atop Maybin Mountain; then

(6) Proceed northeast in a straight line approximately 2.2 miles, crossing back onto the Zirconia map, to the intersection of an unnamed road, known locally as County Road 1113/Maybin Road, with Mountain Valley Road, also known as County Road 1109/Cabin Creek Road; then

(7) Proceed northwest along Mountain Valley Road/County Road 1109/Cabin Creek Road approximately 1.3 miles, crossing back onto the Standingstone Mountain map, to its intersection with Pinnacle Mountain Road; then

(8) Proceed northwest in a straight line approximately 1.0 mile to the intersection of Little Cove Creek with the 2,800-foot elevation contour; then

(9) Proceed westerly along the 2,800-foot elevation contour approximately 2.4 miles to its intersection with an unnamed creek on the north slope of Stone Mountain that flows into Jeffers Lake; then

(10) Proceed southwest in a straight line approximately 2.0 miles to the intersection of the shared Henderson–Transylvania county line with the Dupont State Forest boundary atop Hickory Mountain; then

(11) Proceed northeast along the Henderson–Transylvania county line approximately 2.6 miles, crossing onto the Horse Shoe map, to its intersection with an unnamed road, known locally as Clipper Lane, on the hilltop above the Sentell Cemetery; then

(12) Proceed northeast in a straight line approximately 1.6 miles to the center of the highest closing contour atop Jeter Mountain; then

(13) Proceed southeast in a straight line approximately 1.3 miles to the center of the highest closing contour atop Evans Mountain; then

(14) Proceed northeast in a straight line approximately 2.0 miles to the center of the highest closing contour atop Wolf Mountain; then

(15) Proceed northeast in a straight line approximately 1.2 miles to the center of the highest closing contour atop Drake Mountain; then

(16) Proceed northwest in a straight line approximately 0.7 mile to the center of the highest closing contour atop Cantrell Mountain; then

(17) Proceed northeast in a straight line approximately 3.3 miles to the 2,618-foot elevation marker on the northeast slope of Long John Mountain; then

(18) Proceed northeast in a straight line approximately 1.4 miles, crossing onto the Hendersonville map, to the center of the highest closing contour atop Stoney Mountain; then

(19) Proceed northeast in a straight line approximately 0.6 mile to the intersection of Brookside Camp Road with Dixie Highway; then

(20) Proceed northeast along Brookside Camp Road approximately 2.1 miles, crossing onto the Fruitland map, to its intersection with Locust Grove Road; then

(21) Proceed northeast along Locust Grove Road approximately 1.4 miles to its intersection with an unnamed trail near Locust Grove Church; then

(22) Proceed northeast in a straight line approximately 0.7 mile to the 3,442-foot elevation marker atop Rich Mountain; then

(23) Proceed northwest in a straight line approximately 0.4 mile to the intersection of Southern Leveston Road with an unnamed jeep trail; then

(24) Proceed northwest along Southern Leveston Road approximately 2.4 miles to its intersection with Hoopers Creek Road; then

(25) Proceed northeast in a straight line approximately 0.7 mile to the 2,983-foot elevation marker labeled Edneyville-5 atop a peak on Burney Mountain along the shared Henderson–Buncombe county line; then

(26) Proceed northeast along the Henderson–Buncombe county line approximately 8.2 miles, crossing onto the Black Mountain map, and return to the beginning point atop Little Pisgah Mountain.

Signed: June 18, 2019.

**Mary G. Ryan,**

Acting Administrator.

Approved: July 11, 2018.

**Timothy E. Skud,**

Deputy Assistant Secretary  
(Tax, Trade, and Tariff Policy).

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